

SCOTT N. SCHOOLS (SCSBN 9990)  
 United States Attorney  
 THOMAS MOORE (ASBN 4305-O78T)  
 Assistant United States Attorney  
 Chief, Tax Division  
 THOMAS M. NEWMAN (CTBN 422187)  
 Assistant United States Attorney  
 9th Floor Federal Building  
 450 Golden Gate Avenue, Box 36055  
 San Francisco, California 94102  
 Telephone: (415) 436-6805  
 Fax: (415) 436-6748

FILED

JAN - 7 2008

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IN THE UNITED STATES DISTRICT COURT FOR THE  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

CV 08

0109

UNITED STATES OF AMERICA and  
 VICTOR CROWE, Revenue Agent,

Petitioners,

v.

RICHARD T. McCORMICK,

Respondent.

NO.

VERIFIED PETITION TO  
 ENFORCE INTERNAL  
 REVENUE SERVICE SUMMONS

Petitioners, the UNITED STATES OF AMERICA and its Revenue Agent, VICTOR CROWE, allege and petition as follows:

1. This proceeding is brought and this Court has jurisdiction hereof under Sections 7402(b) and 7604(a) of the Internal Revenue Code (26 U.S.C. §§ 7402 and 7604).

2. Petitioner VICTOR CROWE is and at all times mentioned herein was an employee and agent of the Internal Revenue Service of the United States Department of the Treasury authorized by the Secretary of the Treasury to perform the duties and take the actions described in Sections 7602 and 7603 of the Internal Revenue Code (26 U.S.C. §§ 7602 and 7603), under Treasury Regulations §§ 301.7602-1 and 301.7603-1 (26 C.F.R. §§ 301.7602-1 and 301.7603-1).

1           3.       Petitioner **VICTOR CROWE** is and at all times mentioned herein was  
2 attempting in the course of authorized duties to determine and collect certain federal tax  
3 liabilities of **RICHARD T. McCORMICK** for the tax year of 2005.

4           4.       Petitioner **VICTOR CROWE** is and at all times herein was attempting in the  
5 course of authorized duties to have respondent produce for inspection, examination and copying  
6 by petitioner certain records possessed by respondent which are relevant and material to attempt  
7 to determine and collect the aforementioned federal tax liabilities of **RICHARD T.**  
8 **McCORMICK**, for the period stated in paragraph 3 above.

9           5.       Respondent **RICHARD T. McCORMICK**'s last known address is 2800  
10 Longview Road, Antioch, CA 94509, which is within the venue of this Court.

11           6.       Petitioner **VICTOR CROWE** is informed and believes that said respondent is in  
12 possession and control of records, paper and other data regarding income and other matters  
13 covered by said petitioner's inquiry and to which petitioners do not otherwise have access,  
14 possession, or control.

15           7.       On October 24, 2007, in accordance with law, Petitioner **VICTOR CROWE**  
16 served a summons on respondent **RICHARD T. McCORMICK** in respect to the subject matter  
17 described in paragraphs 3, 4, and 6 above, by leaving an attested copy of the summons at the last  
18 and usual place of abode of the respondent **RICHARD T. McCORMICK**. The requirements of  
19 said summons are self-explanatory, and a true copy thereof is attached hereto as Exhibit A and is  
20 hereby incorporated by reference as a part of this petition.

21           8.       The items sought by the summons described in paragraph 7 above are relevant to  
22 and can reasonably be expected to assist in the determination and collection of the above-  
23 mentioned federal tax liabilities of **RICHARD T. McCORMICK** for the years stated in  
24 paragraph 3 above. It was and now is essential to completion of petitioner's inquiry regarding  
25 the determination and collection of the above-mentioned federal tax liabilities of **RICHARD T.**  
26 **McCORMICK** for the years stated in paragraph 3 above that respondent produce the items  
27 demanded by said summons.

28 ///

1           9.     The respondent did not appear on November 6, 2007, as requested in the  
2 summons.

3           10.    By letter dated November 16, 2007, respondent **RICHARD T. McCORMICK**  
4 was provided with another opportunity to comply by appearing for an appointment with  
5 Petitioner **VICTOR CROWE** on December 3, 2007. See Exhibit B.

6           11.    As of the date of this petition, the respondent has failed to comply with the  
7 summons.

8           12.    All administrative steps required by the Internal Revenue Code for issuance of the  
9 summons have been taken.

10          13.    There has been no referral to the Department of Justice for criminal prosecution  
11 of the matters described in the summons.

12          **WHEREFORE**, having stated in full their petition against the respondent, petitioners  
13 pray for enforcement of the subject summons as alleged and set forth above, as follows:

14          A.     That the named respondent herein be ordered to appear and show cause before this  
15 Court, if any, why respondent should not be compelled by this Court under 26 U.S.C. § 7604(a)  
16 to give such testimony and to produce such items as are required in the herein above-described  
17 summons;

18          B.     That respondent be ordered by the Court to appear before the petitioner **VICTOR**  
19 **CROWE** or any other designated agent, at a time and place directed by the Court and then and  
20 there give such testimony and produce such items as is required by the summons; and

21          C.     That the Court grant the petitioner **UNITED STATES OF AMERICA** its costs  
22 in this proceeding and such other and further relief as may be necessary and proper.

23                               SCOTT N. SCHOOLS  
24                               United States Attorney

25                               

26                               THOMAS M. NEWMAN  
27                               Assistant United States Attorney  
28                               Tax Division

VERIFICATION

I, **VICTOR CROWE**, pursuant to 28 U.S.C. § 1746, declare and state as follows:

I am a duly employed Revenue Agent in the Walnut Creek, California office of the Internal Revenue Service of the United States Treasury Department. I am one of the petitioners making the foregoing petition. I have read and know the entire contents of the foregoing petition, and all statements of fact contained in said petition are true to the best of my own personal knowledge and recollection, and as to those facts stated upon information and belief, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 29, 2007 at Walnut Creek, California.

  
\_\_\_\_\_  
**VICTOR CROWE**



# Summons

In the matter of Mr. Richard T. McCormick

Internal Revenue Service (Division): SB/SE Exam Group 1378

Industry/Area (name or number): California Area 7

Periods: 2005 Form 1040 Federal Tax Return

## The Commissioner of Internal Revenue

To: Mr. Richard T. McCormick

At: 2800 Longview Road, Antioch, Ca. 94509

You are hereby summoned and required to appear before Victor Crowe Revenue Agent Exam Group 1378 an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

1. Did you receive any nontaxable income (such as gifts, inheritances, loans) in 2005? If so, submit a schedule showing the amount, date and nature of each such receipt.
2. Submit the general accounting records (journals, ledgers, etc.) for your business for 2005.
3. Submit all your bank statements (personal and business accounts) for 2005.
4. Submit the source documents related to your Schedule C business income (billing invoices, cash register tapes, etc.) for 2005.
5. Submit evidence (receipts, invoices, cancelled checks, other proofs of payment) to show that you incurred and paid the following business expenses in 2005.

Description	Amount
Contract Labor	\$116,000
Rent-Vehicles, Machinery, Equipment	8,564
Supplies	216,269

6. Submit the following documents for inspection:
  - (a) a copy of each Form 940, 941 and 1099 that you filed for 2005;
  - (b) a copy of your Federal income tax return for 2004 and 2006 (if filed);
  - (c) a copy of each excise tax return that you filed for 2005;
  - (d) a copy of each Form W-4 in your files;
  - (e) copies of lease(s)/rental agreement(s) related to your 2005 Schedule C rent expenses.

**Do not write in this space**

### Business address and telephone number of IRS officer before whom you are to appear:

185 Lennon Lane, Walnut Creek, California 94598 925-974-3753

Place and time for appearance at 185 Lennon Lane, Walnut Creek California 94598



Department of the Treasury  
Internal Revenue Service

[www.irs.gov](http://www.irs.gov)

Form 2039 (Rev. 12-2001)  
Catalog Number 21405J

on the 6th day of November, 2007 at 10:00 o'clock a m.  
Issued under authority of the Internal Revenue Code this 24th <sup>(year)</sup> day of October, 2007 <sup>(year)</sup>

Signature of issuing officer

Signature of approving officer (if applicable)

Revenue Agent, #68-11784

Title

Exam group Manager 94-11873

Title

Exhibit A

Original — to be kept by IRS



# Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date <u>10/24/2007</u>	Time <u>10:24 AM</u>
---------------------------	-------------------------

**How  
Summons  
Was  
Served**

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☒ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): NA
3. ☐ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: \_\_\_\_\_

Signature

Title

Revenue Agent

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: October 24, 2007

Time: 10:00 a.m.

Name of Noticee: Mrs. Michele A. McCormick

Address of Noticee (if mailed): 2800 Longview Road, Antioch, Ca. 94509

**How  
Notice  
Was  
Given**

- ☒ I gave notice by certified or registered mail to the last known address of the noticee.
- ☒ I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any).
- ☐ I gave notice by handing it to the noticee.
- ☐ In the absence of a last known address of the noticee, I left the notice with the person summoned.
- ☐ No notice is required.

Signature

Title

Revenue Agent

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Title

Revenue Agent



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
OFFICE OF CHIEF COUNSEL  
SMALL BUSINESS/SELF-EMPLOYED DIVISION COUNSEL  
SUITE 470, SA-2801  
4330 WATT AVENUE  
SACRAMENTO, CA 95821-7012  
(916) 974-5700  
FAX (916) 974-5732

**NOV 16 2007**

CC:SB:7:SAC:1:GL:150382-07  
KABeile

CERTIFIED and REGULAR MAIL

Richard T. McCormick  
2800 Longview Road  
Antioch, CA 94509

In re: Summons served on October 24, 2007

Dear Mr. McCormick:

The Small Business/Self-Employed Area of the Internal Revenue Service has notified our office that you did not comply with the provisions of the summons served on you on October 24, 2007. Under the terms of the summons you were required to appear before Revenue Agent Victor Crowe on November 6, 2007.

Legal proceedings may be brought against you in the United States District Court for not complying with the summons. To avoid such proceedings, you are to appear before Revenue Agent:

Name: Victor Crowe  
Date: December 3, 2007, Monday  
Time: 10:00 a.m.  
Address: Internal Revenue Service  
185 Lennon Lane  
Walnut Creek, CA 94598

Exhibit B

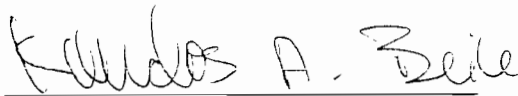
VAR 11-11-07

CC:SB:7:SAC:1:GL:150382-07 - 2 -

Any books, records, other documents, or testimony called for in the summons should be produced at the date and time shown above.

If you have any questions, please contact Revenue Agent Victor Crowe at (925) 974-3753.

Sincerely,

A handwritten signature in cursive script, reading "Kandis A. Beile". The signature is written in dark ink and is positioned above the printed name.

KANDIS A. BEILE  
Paralegal Specialist (Sacramento,  
Group 1)  
(Small Business/Self-Employed)  
IRS I.D. No. 94-10224

Enclosure:

Summons served on October 24, 2007

cc: Internal Revenue Service  
185 Lennon Lane  
Walnut Creek, CA 94598  
Att: Victor Crowe, Revenue Agent